(2)

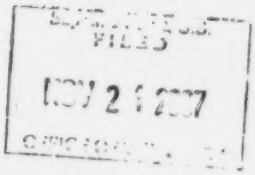
NO. 07-426

IN THE SUPREME COURT OF THE UNITED STATES

RICHARD HAMBLEN,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

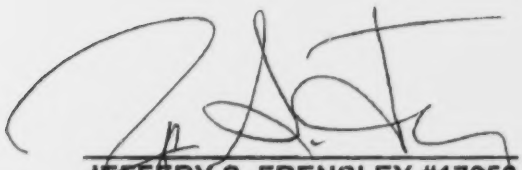


On Petition for Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

MOTION TO PROCEED *IN FORMA PAUPERIS*

Comes, the Petitioner Richard Hamblen, through undersigned counsel, pursuant to Rule 39 of the Rules of the Supreme Court and hereby moves the Court for leave to proceed *in forma pauperis* in this matter. Leave to proceed *in forma pauperis* has not been sought in any other court and counsel was not appointed under the Criminal Justice Act. Mr. Hamblen has recently been released from a fifiteen (15) month term of incarceration as a result of the underlying conviction, which forms the basis of his Petition for Writ of Certiorari, which was denied on October 29, 2007. Mr. Hamblen seeks leave to proceed *in forma pauperis* in light of his recent incarceration in order that he may have his Petition for Rehearing placed on the docket. In support of this Motion, Mr. Hamblen files the attached notarized affidavit in the form prescribed by the Federal Rules of Appellate Procedure, Form 4.

Respectfully Submitted,



JEFFERY S. FRENSLEY #17358
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Nashville, Tennessee 37219-8288
615-256-2111
Attorney for the Petitioner

FORM 4.

AFFIDAVIT ACCOMPANYING MOTION FOR PERMISSION TO APPEAL IN FORMA PAUPERIS

United States Court of Appeals
for the Sixth Circuit

RICHARD HAMBLEN]
]
v.] Case No. 07-426
UNITED STATES OF AMERICA]
]

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. §§ 1746; 18 U.S.C. §§ 1621.)

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Signed: Richard A Hamblen Date: NOVEMBER 19, 2007

My issues on appeal are:

WHETHER THE SECOND AMENDMENT GUARANTEES MEMBERS OF A LEGITIMATE STATE AUTHORIZED MILITIA THE RIGHT TO KEEP AND BEAR ARMS SUPPLIED BY THEMSELVES OF THE KIND IN COMMON USE BY THE MILITARY AT THE TIME.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	$0.00		$0.00	
Self-employment	$0.00		$0.00	
Income from real property (such as rental income)	$0.00		$0.00	
Interest and dividends	$0.00		$0.00	
Gifts	$150.00		$0.00	
Alimony	$0.00		$0.00	
Child support	$0.00		$0.00	
Retirement (such as social security, pensions, annuities, insurance)	$0.00		$0.00	
Disability (such as social security, insurance payments)	$0.00		$0.00	
Unemployment payments	$0.00		$0.00	
Public-assistance (such as welfare)	$0.00		$0.00	
Other (specify):	$0.00		$0.00	
Total monthly income:	$150.00	$0.00	$0.00	$0.00

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
Self-Contractors Mirror & Glass Co	510 Houston St Nashville, TN 37203	Sep 1987-present	
Custom Marble	Franklin, TN (defunct)	1987	$1,200.00
Sisters Of Mercy of Nashville	Nashville, TN	1986-87	$3,000.00

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay

4. How much cash do you and your spouse have? $ 100.00

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
Pinnacle	Personal Checking- RH	$0.00	
Pinnacle	Business Checking-RH	$1,500.00	

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home (Value)	Other real estate (Value)	Motor Vehicle #1 (Value)
0.00	0.00	Make & year:
		Model:
		Registration #:

Motor Vehicle #2 (Value)	Other assets (Value)	Other assets (Value)
Make & year:		
Model:		
Registration #:		

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
No one		

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
No one		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	$0.00	
Are real estate taxes included? ☐Yes ☐No Is property insurance included? ☐Yes ☐No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	$0.00	
Home maintenance (repairs and upkeep)	$0.00	
Food	$300.00	
Clothing	$0.00	
Laundry and dry-cleaning	$0.00	
Medical and dental expenses	$23.00	
Transportation (not including motor vehicle expenses)	$0.00	
Recreation, entertainment, newspapers, magazines, etc.	$0.00	
Insurance (not deduced from wages or included in mortgage payments) Homeowner's or renter's	$0.00	
Life	$0.00	
Health	$725.00	
Motor vehicle	$300.00	
Other:	$0.00	
Taxes (not deducted from wages or included in mortgage payments) specify: business and franchise taxes	$35.00	
Installment payments	$0.00	
Motor Vehicle	$0.00	
Credit card (name):	$0.00	
Department store (name):	$0.00	
Other: Hardship payment on defaulted bus. debt-Chase	$100.00	
Alimony, maintenance, and support paid to others	$0.00	
Regular expenses for operation of business, profession, or farm (attach detail)	$1,445.00	
Other (specify):	$0.00	
Total monthly expenses:	$2,928.00	$0.00

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☑ No If yes, describe on an attached sheet.

10. Have you paid-or will you be paying-an attorney any money for services in connection with this case, including the completion of this form?

☑ Yes ☐ No If yes, how much? $ 45,000.00

If yes, state the attorney's name, address, and telephone number:

Jeffrey S. Frensley
P.O. Box 198288
Nashville, TN 37219
(615) 256-2111

11. Have you paid-or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☑ No If yes, how much? $

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

My estranged wife has stolen all my money and property and is suing me for divorce.

13. State the address of your legal residence.

946 Evans Road
Nashville, TN 37204
(my brother's house)

Your daytime phone number: (615) 615-244-1515

Your age: 52 Your years of schooling: 16

Your social-security number: 412 96 9902

No. 07-426

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 2007

Supreme Court, U.S.
FILED
NOV 21 2007
OFFICE OF THE CLERK

RICHARD HAMBLEN
Petitioner,

vs.

UNITED STATES OF AMERICA
Respondent

PETITION FOR REHEARING OF ORDER DENYING PETITION FOR WRIT OF CERTIORARI

Comes the Petitioner, Richard Hamblen, through undersigned counsel, and hereby files this Petition pursuant to Rule 44 of the Rules of the Supreme Court. This Petition is restricted to the grounds set forth in Rule 44 and is presented in good faith and not for delay. In support of this Petition Mr. Hamblen would state that the court should consider his Petition for Writ of Certiorari, which was denied by this Court on October 29, 2007 in light of intervening circumstances of a substantial effect.

Mr. Hamblen was convicted by a jury in the Middle District of Tennessee for unlawful possession of firearms. The District Court refused to allow Mr. Hamblen to advance his argument that he had an individual right to bear arms as result of his membership in the Tennessee State Guard, a voluntary, statutorily created and authorized militia for the State of Tennessee. Mr. Hamblen was sentenced to a term of imprisonment of fifteen (15) months. The grounds for hearing this case are set forth in

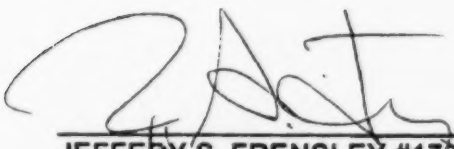
his Petition for Writ of Certiorari previously filed which he adopts and incorporates by reference in this Petition for Rehearing.

On November 20, 2007, this Court granted the Petition for Writ of Certiorari in the case of District of Columbia v. Heller, 07-290. Heller is a civil case brought in the District of Columbia challenging the District's handgun ban. At issue in that case is whether the Second Amendment creates an individual right to bear arms. This is the precise issue raised by Mr. Hamblen in his appeal. However, Mr. Hamblen's case is different that that case for several important and critical reasons. Mr. Hamblen submits the Court should reconsider his Petition and grant the Writ.

First, Mr. Hamblen's case is a criminal case and as a result of being deprived of the opportunity to present his defense that the Second Amendment protected his right to possess the firearms for which he was charged and ultimately convicted of possessing, he has suffered a much more serious sanction that any of the parties in the other case. Second, Mr. Hamblen's case raises a critical element not presented in Heller insofar as Mr. Hamblen was a member of a legitimate statutorily created and authorized militia. There is no alleged militia membership in the other case by any of the parties involved. Finally, by granting Mr. Hamblen's petition the issue of retroactive application of any ruling on this important issue can be resolved without the need for post-conviction litigation.

WHEREFORE, for all the foregoing reasons, the Petitioner would respectfully request that the Court reconsider its order denying his Petition for Writ of Certiorari pursuant to Rule 44 of the Supreme Court Rules in light of the intervening circumstance of substantial or controlling effect.

Respectfully Submitted,



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IN THE SUPREME COURT OF THE UNITED STATES
October Term, 2007

RICHARD HAMBLEN
Petitioner,

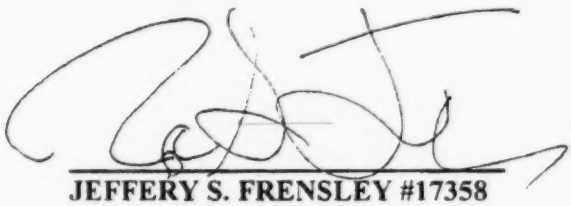
vs.

UNITED STATES OF AMERICA
Respondent

CERTIFICATION OF COUNSEL

Comes Jeffery S. Frensley, counsel for the Petitioner, Richard Hamblen, pursuant to Rule 44 (2) of the Rules of the Supreme Court and hereby certifies that Mr. Hamblen's Petition for Rehearing under Rule 44 filed in this matter is limited to intervening circumstances of a substantial or controlling effect as specified in Paragraph 2 of Rule 44. Counsel further certifies that the Petition is presented in good faith and not for delay.

Respectfully Submitted,



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